

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

HIMC CORPORATION, a Washington corporation,

Plaintiff,

V.

PREM RAMCHANDANI and Jane Doe Ramchandani; SHAI BAR LAVI and ANNA SACHS BAR-LAVI; AVI SIVAN and Jane Doe Sivan; AVRAHAM OVAIDIA and Jane Doe Ovaidia; and FIDELITY TRANSFER CO., a Nevada corporation.

Defendants.

Case No. C07-5342FDB

**ORDER DENYING HIMC'S
MOTION FOR CONTEMPT AND
SANCTIONS RE SURRENDER OF
SECURITIES**

Plaintiff has moved for the Individual Defendants to show cause why they should not be held in contempt for their failure to comply with this Court's orders to surrender the original HIMC securities issued to them on or about February 11, 2005, with Fidelity Transfer Co. Certificate numbers Nos. 101442, 101443, 101444, and 101445.

Individual Defendants' motion for a stay in this court has been denied, and the Individual Defendants have filed an appeal. On January 5, 2009, the Individual Defendants moved in the Ninth Circuit Court of Appeals, pursuant to Rule 8, Fed. R. App. Proc., for a stay pending appeal, which

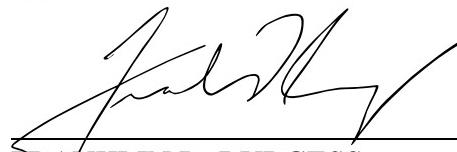
ORDER - 1

1 motion is presently pending. (Dec. of Moshe Mortner, Counsel for Individual Defendants.)
2 Individual Defendants argue in their response to HIMC's motion that they find themselves in
3 jeopardy of being punished with contempt for having pursued their rights in the Court of Appeals.
4 Individual Defendants argue that Rule 8(a)(1) of FRAP provides that “[a] party must ordinarily move
5 first in the district court for ... a stay of the judgment or order of a district court pending appeal.”

6 Individual Defendants having appealed to the Ninth Circuit Court of Appeals, and having
7 moved appropriately for a stay in that court, having first been denied in the District Court, HIMC's
8 motion for contempt and sanctions will be denied, as it is appropriate to allow the Court of Appeals
9 time to act on the matter.

10 NOW, THEREFORE, IT IS ORDERED: Plaintiff's Motion for Order To Show Cause and
11 To Hold Defendants in Contempt and To Impose Sanctions re: Surrender of Securities [Dkt. # 117]
12 is DENIED. The Clerk is directed to strike the February 17, 2009 hearing scheduled on this motion.

13 DATED this 27th day of January, 2009.

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16 FRANKLIN D. BURGESS
17 UNITED STATES DISTRICT JUDGE
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